

~~SECRET~~5th January, 1960.COCOM Document 3715.20/4BCOORDINATING COMMITTEERECORD OF DISCUSSIONONITEM 1520 - RADIO RELAY COMMUNICATIONS EQUIPMENT15th December 1959

Present: Belgium(Luxembourg), Canada, France, Germany, Italy, Japan,
Netherlands, United Kingdom, United States.

References: COCOM Docs. Nos. 3700.2, 3 and 9, 3715.00/1, 3715.20/1 to 3 and
W.P. 1520/1 to 5.

1. The CHAIRMAN invited the Committee to resume discussion in order to try to find some method of allowing the equipment covered by Item 1520 to be exported when the intended end-use was non-strategic. He recalled that at the close of the latest discussion of this question the Netherlands Delegation had brought a compromise proposal before the Committee (COCOM Doc. No. 3715.20/2, paragraph 26), and explained that the United States Delegation had that very day submitted a new proposal in COCOM Doc. No. 3715.20/3.
2. The UNITED STATES Delegate stated that he would confine himself to a few brief comments on his Delegation's proposal, which he felt was sufficiently clear. He stressed that this proposal went a considerable way to meet the views expressed by the various delegations and recalled that the basic point at issue was to choose between the prior consultation procedure and the administrative exceptions system accompanied by ex post facto notification. His Delegation's present proposal took up an earlier German suggestion in providing for prior notification: all export cases would be notified to the Committee and, after a relatively short period, discussion would take place in the Committee if any delegation requested it. Such discussion would enable the Committee to study the details submitted by the requesting Government, to specify the points on which one or several delegations wished to have further particulars and, when an objection had been raised, discussion would take place according to the regular procedure. The Delegate stated finally that, if as he hoped, his Delegation's proposal could provide a basis for agreement, the Committee would rapidly be able to settle the question of the interpretation of the exclusion clause appearing in the present definition of Item 1520.
3. The FRENCH Delegate warmly appreciated the effort made by the United States authorities on the technical plane in submitting the proposal set out in COCOM Doc. No. 3715.20/3, which the French Delegation's experts believed might well provide an excellent basis for agreement. The Delegate pointed out, however, that Item 1520 accompanied by all the requirements stipulated in the United States proposal in no way necessitated a prior consultation procedure. The French Delegation believed that this item was not in any way more strategic than the other items in the Electronics Category of the International Lists for which the Committee had agreed to adopt the administrative exceptions system with ex post facto notification, and should consequently be subject to the same form of control as the others.
4. The GERMAN Delegate appreciated the compromise effort made by the United States Government in the proposal contained in COCOM Doc. No. 3715.20/3. He pointed out, however, that the United States Delegation, while proposing very strict technical cut-offs, wished to maintain a system where the Committee would be given prior notification of export requests. The Delegate noted that, under the United States proposal, the present definition, together with the exclusion

of equipment between the transmitter and camera or studio, would remain unchanged. Coming back to the substance of the United States proposal, the Delegate wished, before giving views thereon and in order to grasp the full meaning, to know whether the United States Delegation considered that the recent French and German requests to export television relays to Poland would meet the requirements of the Note just submitted, and whether the proposed exports could have been made had this note been accepted.

5. The FRENCH Delegate associated himself with his German colleague's question and stressed that this example should make it possible to judge the exact scope of the United States proposal.

6. The UNITED STATES Delegate stated that he was unable to reply to this question and that his Government's proposal had been drawn up without reference to individual cases.

7. The FRENCH and GERMAN Delegates were unable to accept the United States proposal.

8. The ITALIAN Delegate noted that the United States proposal was twofold. In the first place it stipulated that "Governments are authorised to issue licences for such exports if no objection or request for consultation is made within 8 working days of the issuance of the submitted document by the Secretariat." The Delegate believed that it was necessary here to decide the exact value to be accorded to any objection which might be raised, for at first sight the procedure proposed seemed to differ from the ordinary prior consultation procedure only as regards the shorter period allowed to Member Governments for the submission of objections. Turning to the second aspect of the United States proposal, the Delegate noted that it was stated that "the cumulative effect of shipments will be an important factor in reviewing proposed exports" and that "if at any stage in the effecting of the export or later servicing thereof, there develops an indication that the equipment has been directed to another location or to another use than that on which the justification was made, all shipments, installation or servicing arrangements should stop immediately". The Delegate believed that these last considerations could very well be applied in the framework of an administrative exceptions system based on the ex post facto notification procedure, to which a certain number of delegations had already agreed in principle. Moreover, should the Committee judge the total reached by exports made over a given period under the guarantees and conditions set out in the first part of the United States proposal to be excessive, provision could be made for the revision of this notification procedure.

9. The NETHERLANDS Delegate stated that he had to reserve his Delegation's position on the prior notification procedure suggested by the United States Delegation. He wished nevertheless to make the following immediate comments on the technical aspects of this proposal. Referring to sub-items (a)(1) to (a)(5), the Delegate stated that the conditions laid down would be more likely to set up a qualitative limit than to make it possible to distinguish between television and telephone equipment. With respect to sub-item (a)(1) in particular, the Netherlands Delegation found the prescribed 5-year period to be too long especially when compared with the period established for other items. If, however, the other delegations accepted this condition, the Netherlands Delegation would agree to it in a spirit of compromise. Turning then to sub-item (c), the Delegate wondered how it would be possible to decide whether the area where the installation would be made was strategic or not. He further asked whether it should be understood that the equipment exported was to provide a material link between Free World television networks and the area where it would be installed. Finally as to sub-item (d), the Delegate wondered if this part were not in contradiction with the last part of the Note which referred to the possibility of the equipment being moved to another location, or if it should be understood that the United States Delegation had meant that the exporting Government should be able to make sure that the equipment remained in the area originally indicated.

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10. The UNITED KINGDOM Delegate also wished to make some comments on the various aspects of the United States proposal. Referring first to the heading of the proposed Note, he wished to make it clear that this wording should not impose any limit whatsoever on the possibility for Member Governments to bring to the Committee exception requests which did not meet the conditions listed. With reference to sub-item (a) and in particular to the words "relay spares, components, etc., which are to be shipped with the initial equipment, are held to an absolute minimum according to Free World practice", the Delegate felt it would be difficult to take "Free World practice" as a basis upon which to determine the quantities of spares to be shipped to countries often far distant, especially if it were remembered that each export had to have a licence, with all the administrative complications that that entailed. The words "stationary types" also created a problem and should be explained. Turning to sub-item (a)(1), the Delegate stated that the 5-year period seemed to him to introduce no positive element in the strategic sphere but would lead to arbitrary discrimination. For all the technical characteristics listed, the Delegate recalled that previous discussion had shown that it was extremely difficult to base a distinction between strategic and other equipment on technical characteristics. He agreed to sub-item (b), but felt that sub-item (c) was particularly ambiguous and in particular it seemed difficult to decide which were the areas where a given piece of equipment was more or less likely to find strategic use. As to sub-item (d), the Delegation shared the views expressed by his Netherlands colleague.

11. More generally-speaking, the Delegate believed that simplicity was eminently desirable in this instance. With prior consultation, a note stating that proposals to supply civilian equipment would be given sympathetic consideration in the Committee would suffice; with administrative exceptions, it would be sufficient to list the essential requirements which, in the United Kingdom Delegation's view, were the following: (a) the equipment should be intended for civilian television, (b) the quantities should not exceed the level required for the installation in question, (c) the installation should be made under Western supervision and on a network recognised by the C.C.I.T., (d) supplies should not include embargoed telephone terminal or carrier equipment, (e) the spares shipped with the equipment should represent the quantities necessary to service the equipment for a maximum of two years, (f) any later supply of servicing equipment should be made under the procedure for servicing cases and (g) the export licences issued should be reported immediately in detail to the Committee.

12. The ITALIAN Delegate stressed that the basic problem was the following: should supplies of equipment covered by Item 1520 and intended for civilian purposes be notified to the Committee before or after licensing? Despite the new United States proposal, it was on this point that the Committee ran into difficulty. He suggested that the Committee concentrate on this question and only examine the technical aspects of the United States proposal later.

13. The NETHERLANDS Delegate stated that his authorities had in principle a marked preference for the system of ex post facto notification, but if the rest of the Committee found a solution along the lines of the United States proposal acceptable, the Netherlands Delegation would concur therein.

14. The UNITED STATES Delegate stated that, since the primary issue remained one of principle, his Delegation's experts would not reply at the present stage to the comments made by the Netherlands and United Kingdom Delegations on the technical aspects of the United States proposal. On the question of principle therefore, the Delegate stated that, after having considered all the alternatives previously proposed in the Committee and having given the question the most deliberate examination, his authorities had reached the conclusion that the choice could only reside between the regular prior consultation procedure and some system of prior notification as suggested in COCOM Doc. No. 3715.20/3. The United States authorities believed that it was impossible to determine all the relevant factors in this field in a sufficiently clear and exhaustive manner to allow of a system of administrative exceptions.

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15. The CHAIRMAN noted that, in trying to establish a uniform practice in the application of its controls under Items 1520, 1523 and 1526, the Committee had come up against the same difficulty, viz. choosing between an administrative exceptions procedure accompanied by strict conditions - a formula to which almost all delegations agreed - and the more flexible prior consultation procedure advocated by one delegation who believed that in this particularly delicate sphere each case should be notified to the Committee before final licensing. If it had not been possible to find a solution to the key problem facing the Committee, it had nevertheless been possible to discover a large measure of unanimous agreement as to certain technical characteristics and certain conditions which should help when submitting and considering exception requests. The Chairman asked if the Committee wished to set a date for the resumption of discussion and himself felt that some time should be allowed for Member Governments to re-examine the matter in the light of the latest discussions.
16. The FRENCH, GERMAN, ITALIAN, NETHERLANDS and UNITED KINGDOM Delegates wanted to resume discussion on the 11th or 18th January.
17. The UNITED STATES Delegate believed it preferable to resume discussion only if Governments were certain that there was a possibility of reaching agreement beforehand, since, in his view, there was nothing more to say on these items. In the United States, the question had been studied at the highest level and he had no reason to believe that his Government would be willing to change their present views. He therefore suggested that the Committee recognise that no agreement had been possible on a new definition and that the existing definition remained unchanged.
18. The GERMAN Delegate, in reply to his United States colleague's last statement, said that the present discussion had introduced new factors which appeared to meet with the agreement of the large majority of the Committee. He therefore urged the United States Delegation to transmit to their Government the desire of other delegations to re-examine the matter.
19. The FRENCH, ITALIAN, JAPANESE and NETHERLANDS Delegates concurred in the German Delegate's remarks and stressed that if further concessions were made on both sides, the Committee might be able to set up a system of ex post facto notification on the basis of certain elements in the last paragraph of the United States proposal.
20. The UNITED STATES Delegate said that, with respect to items as important as this, his Government felt that all Member Governments should be interested in exposing contemplated exports of any equipment covered by the embargo to all the information and advice that other Member Governments might be able to offer.
21. After a further exchange of views, the COMMITTEE agreed to resume discussion on the 25th January, 1960.

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